

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BALWINDER SINGH,

Defendant.

3:13-CR-117-LRH-VPC

ORDER APPROVING  
STIPULATION RE: DISCOVERY  
MATERIALS

IT IS HEREBY STIPULATED AND AGREED by and between DANIEL G. BOGDEN, United States Attorney; SUE FAHAMI, Assistant United States Attorney; BRIAN L. SULLIVAN, Assistant United States Attorney; and MARA KOHN, Trial Attorney, Counterterrorism Section, United States Department of Justice, counsel for the UNITED STATES OF AMERICA, and RENE VALLADARES, Federal Public Defender, and MICHAEL J. KENNEDY, Chief Assistant Federal Public Defender, counsel for Defendant, that pursuant to F. R. Crim. P 16(d)(1), the Court enter the attached Protective Order Re: Discovery Materials.

1 The parties stipulate that they have a compelling interest in preventing certain discovery  
2 materials from being disclosed to anyone not a party to the court proceedings in this matter, or to anyone  
3 not assisting the parties' legal teams with preparation for the trial of this matter.

4 The parties further stipulate that such material may include information relevant to ongoing  
5 national security investigations and prosecutions, information provided to the United States by foreign  
6 law enforcement, and materials implicating the privacy interests of the defendant and third parties.

7 Dated this 10<sup>th</sup> day of March, 2014.

8 DANIEL G. BOGDEN  
9 United States Attorney

RENE VALLADARES  
Federal Public Defender

10 /s/ Sue Fahami  
11 SUE FAHAMI  
12 Assistant United States Attorney  
13 BRIAN L. SULLIVAN  
14 Assistant United States Attorney  
15 MARA M. KOHN  
16 Trial Attorney  
17 Counterterrorism Section  
18 United States Department of Justice  
19 Washington, D.C.

/s/ Michael J. Kennedy  
MICHAEL J. KENNEDY  
Assistant Federal Public Defender

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PROTECTIVE ORDER RE: DISCOVERY  
MATERIALS

WHEREAS, the parties stipulate that they have a compelling interest in preventing certain discovery materials from being disclosed to anyone not a party to the court proceedings in this matter, or to anyone not assisting the parties' legal teams with preparation for the trial of this matter;

AND WHEREAS, such material may include information relevant to ongoing national security investigations and prosecutions, information provided to the United States by foreign law enforcement, and materials implicating the privacy interests of the defendant and third parties;

AND WHEREAS, the parties further stipulate that the Court has the power under Fed. R. Crim. P. 16(d)(1) and 26.2 to grant appropriate relief to the parties where required in the interests of justice;

IT IS HEREBY ORDERED pursuant to Rule 16(d) of the Federal Rules of Criminal Procedure that the government shall segregate the discovery materials it produces to the defendant and his counsel

1 of record into two categories: (1) "general discovery materials", and (2) "sensitive discovery materials."<sup>1</sup>  
2 The category to which particular discovery materials belong shall be clearly identified by the  
3 government.

4 IT IS FURTHER ORDERED that, except as otherwise provided herein, the defendant, his  
5 counsel of record, or members of the defense team and others working at the direction of counsel of  
6 record or defense team members, shall not provide copies or reproductions of any "general discovery  
7 materials" to any individuals, organizations or other entities, other than: (i) the defendant; (ii) members  
8 of the defense team (counsel of record, paralegals, investigators, translators, litigation support personnel  
9 and secretarial staff); (iii) experts retained to assist in the preparation of the defense; and (iv) others  
10 working at the direction of counsel of record or defense team members. Counsel of record or members  
11 of the defense team may show and/or play audio and/or video recordings (but not provide copies of)  
12 discovery materials to witnesses or potential witnesses or others working at the direction of counsel of  
13 record or defense team members, if, in the sole discretion of counsel of record, he or she determines that  
14 it is necessary to do so for the purpose of preparing the defense of the case.

15 IT IS FURTHER ORDERED that, except as otherwise provided herein, counsel of record or  
16 members of the defense team shall not provide copies or reproductions of any "sensitive discovery  
17 materials" to any individuals, organizations or other entities, other than: (i) members of the defense  
18 team (counsel of record, paralegals, investigators, translators, litigation support personnel and secretarial  
19 staff, and others working at their direction); and (ii) experts retained to assist in the preparation of the  
20 defense. Counsel of record and members of the defense team may show and/or play audio and/or video

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21 <sup>1</sup> "Sensitive discovery materials" includes: (1) declassified information; (2) materials that were a product  
22 of physical searches or electronic surveillance authorized pursuant to the Foreign Intelligence  
23 Surveillance Act of 1978, 50 U.S.C. §§ 1801-1811, 1821-1829, ("FISA") that are reviewed by or made  
24 available to the defendant or defense team in this case; (3) any materials or information relating to any  
cooperating witnesses; and (4) the affidavits filed in support of the search warrants issued by the United  
States Magistrate Judge in case number 3:13-MJ-0170-VPC, which are currently under seal.

1 recordings (but not provide copies of) sensitive discovery materials to the defendant, witnesses or  
2 potential witnesses, if, in the sole direction of counsel of record, he or she determines that it is necessary  
3 to do so for the purpose of preparing the defense of the case.

4 IT IS FURTHER ORDERED that counsel of record or members of the defense team may show  
5 and/or play audio/video recordings (but not provide copies of) of sensitive discovery materials to  
6 attorneys who are not counsel of record in this matter, if, counsel of record determines, in his or her sole  
7 discretion, that it is necessary to do so for the purpose of preparing the defense of the case. Prior to any  
8 such dissemination of discovery materials to any such attorney, however, counsel for the defendant  
9 shall: (1) provide a copy of this Protective Order to such attorney; and (2) instruct such individual that  
10 he or she may not further disseminate such materials except as permitted by the terms of this Protective  
11 Order.

12 IT IS FURTHER ORDERED that no individual to whom copies of sensitive discovery materials  
13 are provided, or to whom sensitive discovery materials are shown or discussed, shall further disseminate  
14 such materials except as permitted by the terms of this Protective Order. Prior to any dissemination of  
15 any copies of sensitive discovery materials to an individual, or prior to any sensitive discovery materials  
16 being shown to or discussed with any individual, counsel for the defendant shall: (1) provide a copy of  
17 this Protective Order to such individual; and (2) instruct such individual that he or she may not further  
18 disseminate such materials except as permitted by the terms of this Protective Order.

19 IT IS FURTHER ORDERED that all sensitive discovery materials in this case are now and will  
20 forever remain the property of the United States Government. Defense counsel will return all sensitive  
21 discovery materials, and any and all copies thereof, to the Government at the conclusion of the case,<sup>2</sup>  
22 except for any such materials that are admitted into evidence during a hearing or trial in this case.

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24 <sup>2</sup> "Conclusion of the case" means after the completion of the trial and any appeals.

1 Defense counsel in receipt of sensitive discovery materials may only make copies of such sensitive  
2 discovery materials in accordance with this Order.

3 IT IS FURTHER ORDERED that any papers to be served upon the Court by either party which  
4 include sensitive discovery materials or refer to the contents of sensitive discovery materials, or any  
5 papers responsive thereto, shall be filed under seal.

6 IT IS FURTHER ORDERED that all discovery materials are to be provided to the defense, and  
7 used by the defense, solely for the purpose of allowing the defendant to prepare his defense.

8 IT IS FURTHER ORDERED that nothing in this Order shall preclude the government or the  
9 defendant from seeking a further protective order pursuant to Rule 16(d) as to particular items of  
10 discovery material.

11 FINALLY, IT IS ORDERED that this Order is entered without prejudice to either party's right to  
12 seek a revision of the Order or to challenge any designation of materials as sensitive discovery materials  
13 by appropriate motion to the Court.

14 Dated this 6th day of May, 2014.

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17 LARRY R. HICKS  
18 United States District Judge  
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